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SOME ASPECTS ABOUT CONFLICT – LEGAL REGULATION OF INTERNATIONAL SHIPPING

Transportation of passengers occupies a significant place in the activities of transport organizations. It should be considered that the comprehensive nature of the movement of passengers requires detailed regulation of the contractual documentation of transportation and clear regulation as the legal status of the parties to the agreement, as well as the operational resolution of disputed situations arising between them in transportation. Expansion and intensity of various international relations, which, indeed, all over the world, naturally entail the steady growth of the number of concluded international passenger transportation's agreements, as well as the development of the practice of its regulation and enforcement.

International passenger transportation is a rather complex type of services, which has multidimensional specific characteristics. Their principal difference from domestic traffic is the fact that international traffic is being carried out on the territory of several states. The question is about the international maritime transport in international private law, that means a special mode of transportation characterized by the general features of transboundary commercial traffic, such as the existence of several competing legal orders, within which it is carried out, the existence of commercial objectives, the presence of a joint movement in the space of the object of transportation and individualized means of transportation, the specifics of the marine space, including the feature of the regime of their legal regulation.

Today, the legal regulation of international passenger transportation is carried out both by the norms of national legislation and international treaties. According to several authors, the national legislation on international transport is subsidiary in

relation to the international treaties. In other words, domestic legislation is subject to international transportation agreements in the event that any problem is not regulated by a transport convention, or the convention itself, that is, its conflict of law rule refers to national law [1, p. 345]. Indeed, if any relations are not regulated by an international treaty, the application of an internal act in this case is subsidiary. However, the second situation – when there is a referral to a national law through a convention on conflict of laws – can hardly be qualified as “subsidiarity” of the application of national law. The theorists of the international private law indicate that a conflict rule applies in combination or together with the material norm of the national law of the state. This action is not a subsidiary, but carries a basic character. This is the specificity of the conflict – legal method of international transport law and international private law in general [2, p. 9]. The subject of international private maritime law is the legal regulation of the carriage of goods, passengers and luggage in international maritime traffic. International private maritime law is the branch of international transport law and the subbranch of international private law. In the doctrine, a concept of the international private maritime law established a fairly long [3, p. 98]. For the international private maritime law is characterized by the modification of common conflict bases, their transformation into special: the law of the port of departure instead of the law of the place of concluding of a contract, the law of the place of collision of ships – instead of the law of committing the offence [4, p. 432]. The most important conflict principles are the principle of the autonomy of the will, the law of the flag and the law of the court. Both for international private law in general and for international private maritime law, three types of sources are characterized: norms of national legislation, international treaties and international customs. A significant feature of the regulation of this sphere in recent years is the expansion of multilateral treaties, which include unified substantive and legal conflict rules that allow us to solve complex issues of merchant shipping on an equal basis.

International transport sources regulate in detail the key issues of international passenger shipping. These are the issues of the contractual nature of shipping, the legal relations of the participants in the transport process, their liability in the event of non – fulfillment or improper fulfillment of obligations, claims and litigation, disputes, documentation of transportation, and so on. A great number of international treaties have been adopted in the field of international shipping, containing both materially – legal norms and conflict – legal norms. The subject of their regulation includes a wide range of issues arising in carrying out a shipping of passengers. So, the specificity of international shipping creates some difficulties in determination the applicable law and establishing the jurisdiction, which should be overcome.

Literature:

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